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INVESTIGATION AND TRIAL PAPERS
RELATING TO THE
ASSASSINATION OF PRESIDENT LINCOLN



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INVESTIGATION AND TRIAL PAPERS
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On the 16 rolls of this microfilm publication are reproduced records relating to the investigation of persons suspected of having participated in, or in any way having aided in, the assassination of President Abraham Lincoln; papers collected for the use of the Military Commission convened to try those implicated in the plot; and the record of the trial (court-martial case file MM 2251). Most of the records are dated between April 15 and July 3, 1865, but a few documents collected as evidence are of an earlier date and some related documents were added to the records at later dates. The records are a part of Record Group 153, Records of the Office of the Judge Advocate General (Army).

Some testimony and information relating to the assassination of President Lincoln and the attempted assassination of Secretary of State William H. Seward were collected by various officials almost immediately after the crimes were committed on the night of April 14, 1865. In addition to the regular police force of the city of Washington, Secretary of War Edwin M. Stanton called upon the military police attached to the Provost Marshal General's Bureau, retainers of the United States Secret Service, corps of detectives and judge advocates attached to the Bureau of Military Justice, Army officers and privates stationed at various points in Washington and surrounding camps and fortifications, and others to aid in the capture of the assassins and their colleagues. After the initial shock of these crimes was over and rewards for the capture of the assassins had been posted, many of these forces were intent upon the capture of the fugitives. The Bureau of Military Justice, however, was steadily at work gathering witnesses and accumulating testimony. And, on April 22, Bvt. Col. H. L. Burnett, Judge Advocate of the Northern Department with headquarters at Cincinnati, Ohio, was ordered to report to Judge Advocate General of the Army Joseph Holt, Chief of the Bureau of Military Justice, and was "specially assigned for duty in the investigation of the murder of President Lincoln, and the attempted assassination of Mr. Seward."¹

Colonel Burnett was assigned office space in the War Department and, with the assistance of Col. H. S. Olcott, Col. H. H. Wells, and one or two others, immediately began to accumulate all available information and evidence.² On May 1, President Andrew Johnson instructed the Assistant Adjutant General to select nine Army officers who were to constitute the Military Commission to try the accused. He also

¹War Department, Adjutant General's Office, Special Order No. 180, April 22, 1865.

²Olcott was relieved from these duties on April 29, 1865; Wells continued on this assignment until about May 17, 1865.

instructed the Judge Advocate General to prefer charges against them and to conduct the trial with the aid of such Assistant or Special Judge Advocates as he might designate. Accordingly a Military Commission was appointed,³ and when it met on May 9, the Judge Advocate General announced that he had appointed the Hon. John A. Bingham and Bvt. Col. H. L. Burnett as Assistant or Special Judge Advocates.⁴

When Colonel Burnett arrived in Washington to conduct investigations relating to Lincoln's assassination, his office staff set up files that followed the normal recordkeeping procedures used during this period. These procedures called for making press copies of letters and telegrams before they were sent out of the office. These copies, in turn, were usually recopied into another volume (fair copies). Generally letters received were entered into registers, the entries and corresponding letters were numbered, and the letters were arranged and filed according to the file-marks assigned to the entries in the register. Letters received but forwarded to some other office or person, with brief instructions or comments (endorsements) on the back of them, were recorded in an endorsement book.

The press copies of letters and telegrams sent by Burnett and his staff were bound in chronological order in two volumes, one for letters and the other for telegrams. All the letters except two (addressed to Postmaster General S. J. Bowen and Secretary of War Edwin M. Stanton on April 29 and May 16, 1865, respectively) were recopied into a separate volume. In this microfilm publication the National Archives has reproduced the fair copies of the letters instead of the press copies because the legibility of many of the latter is poor. Following the fair copies, however, are reproductions of the press copies of the two letters that, for one reason or another, were not recopied. Press copies of the telegrams (for which there are no known fair copies) are reproduced following the letters. There is a name index preceding letters sent and also one preceding telegrams sent.

Colonel Burnett's office also maintained a register in which most of the letters received were recorded. Each entry generally gives the name of the writer, the date of the letter, and a synopsis of the content of the letter. Sometimes there are additional remarks making reference to entries in the endorsement book or indicating that the letter was filed or was referred to some other office or person. The entries were numbered 1 to 751. In one case, however, an entry number (488) was omitted, and in several cases entry numbers were repeated.

³War Department, Adjutant General's Office, Special Orders No. 211 and 216, dated May 6 and 9, 1865, respectively.

⁴Bingham had been a Republican Congressman from Ohio. He failed to be reelected in 1864 and was appointed a judge advocate in the Army by President Lincoln. Both Bingham and Burnett served as legal counsels for the prosecution during the trial of the conspirators.

Where the numbers are repeated and different letters bear the same file designation, the National Archives has added, in brackets, "No. 1" and "No. 2" to the file designation. Sometimes the same document was entered in the register twice. When this occurs the National Archives has placed, in brackets, the file designation under which the document is filed.

When Colonel Burnett was appointed Assistant or Special Judge Advocate to the Military Commission, he set up a new register called the Military Commission's "Record Book" or "Evidence Book." This register contains synopses of statements of persons and other papers collected for possible use as evidence in the trial. An entry generally gives the name of the person furnishing the statement, a synopsis of the information, the date, and the names of the persons to whom the statement or testimony referred. Many of the entries copied in this register had already been entered in the register of letters received by Colonel Burnett described in the paragraph above. In these cases the National Archives has placed, in brackets, the file designation under which the document is filed. The entries in the register are not arranged according to any discernible pattern. Most of the entries are dated within the 2-week period following the assassination, but many are undated. A few of the entries are for documents dated well before the assassination, such as a copy of a bill adopted by the Confederate Congress, February 12, 1864, and an application for a check made by John Wilkes Booth on a bank in London on October 29, 1864.

Not all documents entered in the two registers are in the files. Entries for those that are filed in any of the series registered by Burnett have been marked by the National Archives with an asterisk. Entries for those that are filed among other series of records in the care of the National Archives have been marked by a double asterisk and carry in brackets the file designations for their current locations.⁵ There are name indexes at the beginning of the registers, but because they are incomplete, the National Archives has prepared supplemental index entries, which are filmed at the appropriate places.

The endorsement book contains a synopsis of each letter received that was referred to another office or person, and a copy of the referral statement. The entries are arranged roughly chronologically by date of endorsement (April 22 to July 4, 1865) and numbered. Each

⁵Four of the documents were used as exhibits in the trial and are reproduced, along with other exhibits, on Roll 15 of this microfilm publication. Two are filed with Turner-Baker papers (Levi C. Turner and Lafayette C. Baker) in Record Group 94, Records of The Adjutant General's Office. Other documents are with papers relating to the adjudication of claims for rewards offered for the apprehension of the conspirators that are filed with letters received by The Adjutant General's Office. The file citation or number under which these papers have been consolidated is "A 967 AGO 1866."

of the letters received should have been entered in one of the registers but, for one reason or another, some were not. If the letter is in the files but was not entered in one of the registers, the National Archives has marked with an asterisk the appropriate entry in the endorsement book. Since there was no index to the endorsement book, the National Archives has prepared a name index to it. This index is reproduced at the beginning of the volume on Roll 1.

The letters received by Colonel Burnett, reproduced on Rolls 2 and 3 of this microfilm publication, are arranged numerically according to the numbers assigned to the entries in the register of letters received. The letters and other papers recorded in the Military Commission's "Record Book" that were not entered in the regular register of letters received are reproduced on Rolls 4 to 6 of this microfilm publication. They are arranged by page number and in the order in which they were registered. Also included on Roll 6 are letters that were not entered in either of the registers but were recorded in the endorsement book. These letters are arranged numerically.

Some documents received or collected were not entered in either of the registers or in the endorsement book. Among them are a few dated as early as the 1850's and as late as the 1880's. All of them relate to the conspirators, the trial, or the records. Some probably are documents collected as evidence or letters received at the time of the investigation and trial that should have been entered in one or both of the registers; others simply were filed with the records because they related to the subject.

The National Archives has arranged these unregistered documents alphabetically by surname of addressee, if given. These are followed by letters without addresses, statements of witnesses, and other related but miscellaneous documents. The National Archives has placed the unregistered documents in folders that have been labeled and numbered 1 to 128. A name index to the documents in the folders has been reproduced just ahead of the documents themselves.

Following the records of investigation and evidence is the record of the trial (court-martial case file MM 2251), consisting of proceedings and exhibits. The proceedings are arranged chronologically except that the defenses of Samuel Arnold, Edward Spangler, Lewis Payne, and Michael O'Laughlin and the address of David E. Herold follow the daily proceedings. The pages of the proceedings from May 9 to June 19 are numbered 1 to 4455. Through error, however, a few page numbers were omitted and some were repeated. Defenses of George A. Atzerodt, Mary E. Surratt, or Samuel A. Mudd are not filed with the proceedings. There is a chronological list of witnesses at the beginning of the proceedings, giving their names and the dates and page numbers of their testimony. The National Archives has prepared an index from the list, giving the page number (where pages are numbered) and the roll number (in parentheses) upon which the testimony of each witness is reproduced; this index follows these introductory remarks.

A printed copy of the argument of John A. Bingham, entitled Argument of John A. Bingham, Special Judge Advocate, In Reply to the Arguments of the Several Counsels. . ., delivered June 27 and 28, 1865, before the Military Commission, Washington, D.C., is filed with the court-martial case in lieu of a manuscript copy. It and some exhibits introduced at the trial are reproduced on Roll 15. Many exhibits are missing, but a list of them and copies of some precede the exhibits. Some of the exhibits that are missing are in the Lincoln Museum. A list of Lincoln items turned over to the Superintendent of the Lincoln Museum on February 5, 1940, is given in the notes reproduced at the beginning of Roll 15.

Reproduced on the last roll of this microfilm publication are copies of the Daily National Intelligencer, a newspaper published in Washington, D.C., in which a fairly detailed record of the trial is given. The newspapers are dated May 16 to June 30 (with gaps). Because the court reporters were not always able to furnish the court immediately with an official copy of previous proceedings, and because the record published in the Intelligencer was made from the notes of these reporters, the published record was sometimes used by the court as a general guide to the proceedings of the previous day. A comparison of the proceedings published in the newspaper with the official proceedings reveals that the newspaper accounts are not always worded exactly as the official proceedings; sometimes portions are omitted, but sometimes additional information is given.⁶

With the court-martial case file, and also reproduced on the last roll, are miscellaneous related records such as copies of subpoenas and lists of witnesses for the prosecution and the defense.

⁶The newspaper accounts also help to fill gaps in the proceedings. The defenses of George A. Atzerodt and Samuel A. Mudd, for example, are missing from the proceedings. The defense of Atzerodt, however, is published in the June 22 issue of the Intelligencer; the June 24 issue gives Ewing's argument on the law in the case of Mudd but not the entire defense.

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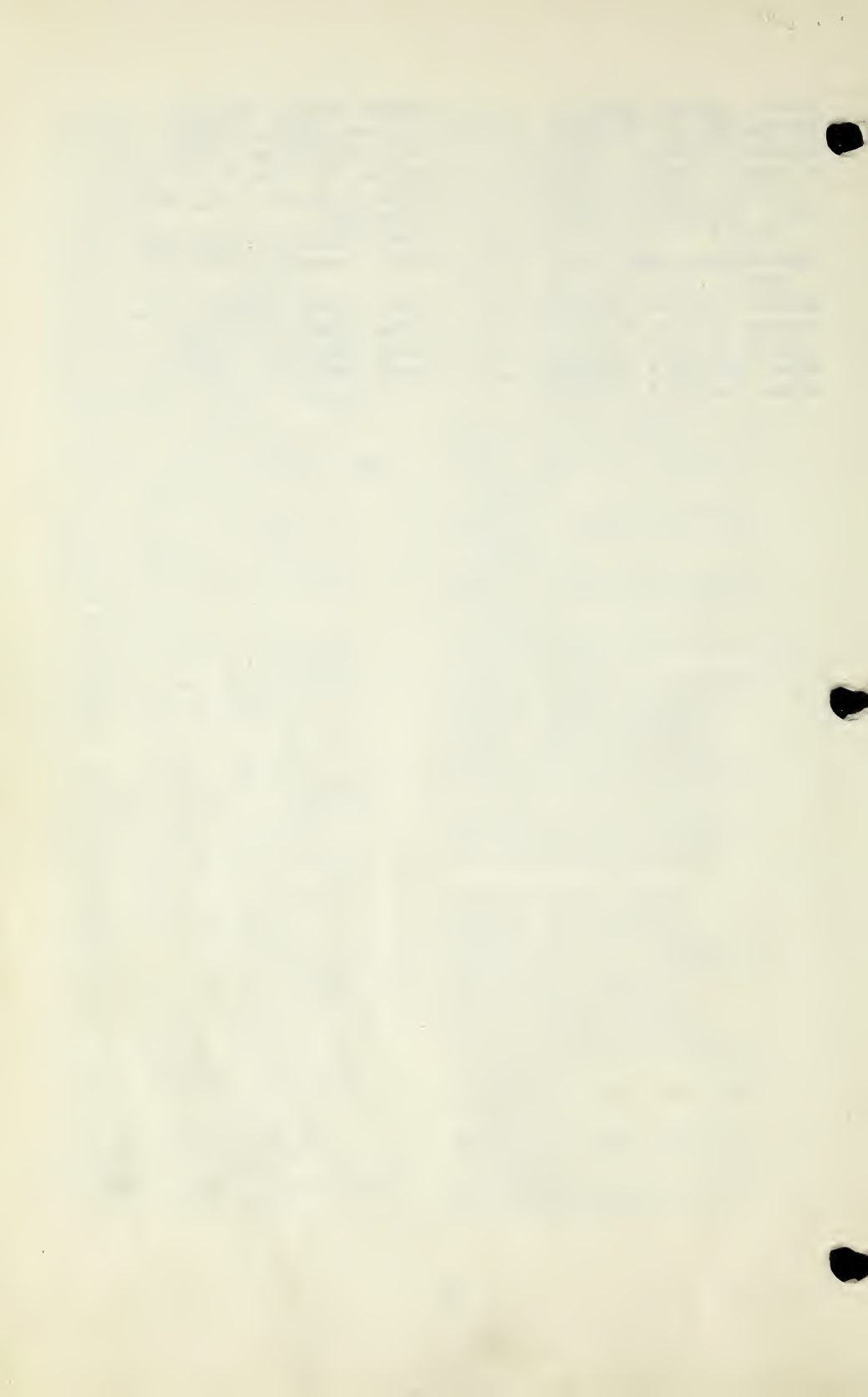
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Endorsement Book of Col. H. L. Burnett, Apr. 22-July 4, 1865
Letters Received by Col. H. L. Burnett:
- 2 File Nos. 1-359 \$7
- 3 File Nos. 360-751 \$8
Letters Received and Statements of Evidence Collected by
the Military Commission:
- 4 Pages 1-53 \$4
- 5 Pages 54-69 \$4
- 6 Pages 70-104 \$4
Letters Received by Col. H. L. Burnett With Endorsements,
May 9-June 9, 1865
- 7 Unregistered Letters Received by Col. H. L. Burnett \$4
Proceedings of the Court-Martial:
- 8 May 9-15, 1865 \$4
- 9 May 16-18, 1865 \$4
- 10 May 19-25, 1865 \$4
- 11 May 26-29, 1865 \$4
- 12 May 30-June 3, 1865 \$4
- 13 June 5-10, 1865 \$4
- 14 June 12-16, 19, and 21-29, 1865 \$5
Defenses of Samuel Arnold, Edward Spangler, Lewis Payne,
and Michael O'Laughlin
Address of David E. Herold
- 15 Argument of John A. Bingham \$4
Exhibits Used in the Court-Martial
- 16 Issues of the Daily National Intelligencer,
May 16-June 30, 1865 \$4
Miscellaneous Records Relating to the Court-Martial

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